

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	CIV 09-953 WJ/ACT
v.)	
)	
SONIC DRIVE-IN OF LOS LUNAS LTD. and)	
B&B CONSULTANTS, INC.,)	
)	
Defendants.)	
)	

**UNOPPOSED MOTION REQUESTING STAY OF PLAINTIFF EEOC'S RESPONSES
TO DEFENDANTS' MOTIONS FOR PARTIAL SUMMARY JUDGMENT (DKT. 3)
AND MOTION TO DISMISS (DKT.4)**

Plaintiff, the Equal Employment Opportunity Commission, by and through the undersigned attorneys, moves the Court for an Order staying briefing on Defendants' Motion for Partial Summary Judgment [Dkt. 3] and Defendants' Motion to Dismiss [Dkt. 4]. The grounds for this motion include:

1. Defendants recently filed a Motion for Leave to Amend Their Pending Motion for Partial Summary Judgment and to Stay Discovery [Dkt. 18]. The outcome of this motion may affect the substance of Defendants' motion for partial summary judgment [Dkt. 3].
2. Plaintiff EEOC intends to file a Motion for Leave to Amend its Complaint. The outcome of EEOC's motion to amend will affect Defendants' motion to dismiss [Dkt. 4].
3. As Defendants' pending motion for partial summary judgment [Dkt. 3] and motion to dismiss [Dkt. 4] will be affected by the outcomes of the parties' motions to amend, it would be

more efficient to deal with the underlying motions once the parties are aware of how their positions on the underlying motions are impacted by the recently filed motions to amend. Otherwise, there will likely be multiple filings and duplicative briefing on the same or similar issues before the Court.

4. The parties have conferred and Defendants do not oppose a stay of briefing on both their motion for partial summary judgment [Dkt. 3] and their motion to dismiss [Dkt. 4], pending the Court's decisions regarding the parties' respective requests for amendment, including Defendants' Motion for Leave to Amend Their Pending Motion For Partial Summary Judgment and to Stay Discovery [Dkt. 18] and Plaintiff EEOC's Motion to Amend Complaint.

For all of the foregoing reasons, Plaintiff respectfully requests that

- a. The Court stay briefing on Defendants' Motion for Partial Summary Judgment [Dkt. 3] until after the Court rules on Defendants' Motion for Leave to Amend [Dkt. 18]. In the event that Defendants' Motion for Leave to Amend is granted, Plaintiff should have 14 days as calculated pursuant to D.N.M.LR-Civ. 7.4 to respond to Defendants' motion for partial summary judgment as amended. In the event that Defendant' Motion for Leave to Amend is denied, Plaintiff should have 14 days as calculated pursuant to D.N.M.LR-Civ. 7.4 from the Court's order to respond to the previously-filed motion for partial summary judgment [Dkt 3]; and
- b. The Court stay briefing on Defendants' Rule 12(b) (6) Motion to Dismiss [Dkt. 4] until after the Court rules on Plaintiff's motion for leave to amend its complaint. Upon the Court's ruling, Plaintiff should have 14 days as calculated pursuant to D.N.M.LR-Civ. 7.4 to respond to Defendant's underlying motion to dismiss.

DATED: June 24, 2010.

Respectfully submitted,

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Electronically Filed

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 24, 2010, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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